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COMMISSION ON HUMAN RIGHTS

Fifty-fourth session

SUMMARY RECORD OF THE 9th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 20 March 1998, at 10.00 a.m.

Chairman:	Mr. SELEBI	(South Africa)
later:	Mr. HYNES (Vice-Chairman)	(Lebanon)
later:	Mr. SELEBI (Chairman)	(South Africa)

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The meeting was called to order at 10.05 a.m.

STATEMENT BY THE SECRETARY FOR RELATIONS WITH STATES OF THE HOLY SEE

1. Archbishop TAURAN (Holy See) said that, by sending him to address the Commission, Pope Jean-Paul II intended to emphasize the importance he attached to the Commission's work. The Holy See considered the Universal Declaration to be an irreplaceable international document, even if some aspects of the text were not in complete harmony with the doctrine of the Catholic Church.

2. Under its agenda for the current session, the Commission would be called upon to examine many situations in which men and women were threatened in their individual or collective rights, beginning with the first right of all, the right to life from conception until a natural death. A great educational effort was required if the principles set forth in the numerous United Nations instruments relating to human rights were to become reality and he wished to stress the contribution which Christians could make to that effort.

3. It was widely recognized that the ideas of the Universal Declaration owed a great deal to Christianity and its practice. Yet there were still too many places where the Christian were systematically prevented from making such a contribution. Situations were still encountered where Christians were prohibited from professing their faith in public or from attending places of worship, suffered acts of gross discrimination going as far as the destruction of their homes, schools, churches and even cemeteries, were required to deny their faith to obtain employment or social assistance or were prevented from communicating with their co-religionists or spiritual leaders living abroad. Such discriminatory situations were not only profoundly unjust and wounding, but also diminished the confidence of the persons concerned in the public authorities, thus standing in the way of their full participation in their countries' political and social development.

4. Expressing the hope that the work of the Commission's session in the fiftieth anniversary year of the Universal Declaration would help to close the gap between principles and realities, he said that human rights were, unfortunately, often known to the general public only through their violations. Had it been fully respected and implemented, the Universal Declaration would have served as an excellent instrument of preventive diplomacy in the 50 years that had elapsed since its proclamation in 1948.

STATEMENT BY THE MINISTER FOR FOREIGN AFFAIRS OF SWEDEN

5. Mrs. HJELM-WALLEN (Sweden) said that the fiftieth anniversary of the Universal Declaration provided an opportunity for reflection and self-criticism. The international community must ask itself in particular what more could be done to live up to the hopes and ideals of the Declaration's drafters. In that connection, it was gratifying that the Commission would shortly be in a position to approve a draft declaration in support of human rights defenders.

6. Her Government had just completed a major review of its international human rights policy, one of whose conclusions had been that human rights constituted an integral dimension of Swedish foreign policy and another that a

better balance had to be established in the attention given to the different categories of human rights. Without relaxing its firm commitment to the promotion of civil and political rights, it intended to bring economic, social and cultural rights into greater focus and to support the High Commissioner for Human Rights in her efforts to make United Nations activities in the field of economic and social rights more effective.

7. Sweden had recently appointed a parliamentary commission to review in detail its laws, policies and practices relating to children. Particular attention would also continue to be devoted to the rights of women and those of minorities, indigenous people, and persons with disabilities.

8. In the light of those principles and priorities and having endorsed the statement by the spokesman for the European Union, she said it was a tragic irony that the death penalty, the violation of the most fundamental human right, had yet to be banned by international law. That brutal and irrevocable form of punishment had no place in a modern civilized society, as an increasing number of States had recognized. It was all the more deplorable that some countries were moving in the opposite direction by making increasing use of the death penalty such as the State of Texas and others in the United States of America and China, where the number of executions remained exceedingly high and death sentences were imposed, in contravention of international standards, for non-violent offences.

9. The right to life was also being flouted by the massacres in Algeria. They had to be stopped and, as the High Commissioner had already said, the international community stood prepared to be of assistance. She urged the Government of Algeria to take all necessary steps to protect its population, to uphold respect for human rights and to cooperate with the special procedures of the Commission.

10. Her second point concerned the involvement of children in armed conflict. Work on the draft optional protocol to the Convention on the Rights of the Child on that subject had revealed widespread agreement among Governments that no person under 18 years of age should take a direct part in hostilities, and she appealed to the very few Governments impeding early agreement on that important subject to waive their objections.

11. She welcomed the High Commissioner's intention to give priority to the issue of women's rights and, in that connection, referred to the situation in Afghanistan, where systematic and appalling violations of the human rights of women and girls were taking place.

12. Lastly, on the subject of freedom from torture, she appealed to all delegations to work towards the early conclusion of an optional protocol to the Convention which would provide for on-site visits to places of detention by a United Nations committee. The horrible practice of torture continued in many places. In 1997 alone, Sweden had granted residence permits to almost 700 persons on the grounds that, if returned to their home countries, they would have risked torture or capital punishment.

13. Since the proclamation of the Universal Declaration 50 years previously, emphasis in the sphere of human rights had shifted from standard-setting to

implementation. It was essential that all Governments should cooperate with the treaty bodies, rapporteurs and other mechanisms for monitoring and support. Governments which refused to cooperate with United Nations human rights mechanisms were failing to live up to their obligations under Articles 55 and 56 of the Charter. In that connection, her Government welcomed the fact that China had indicated its willingness to cooperate with a view to improving its human rights situation and sincerely hoped that China would extend that more cooperative spirit to cover all relevant human rights mechanisms of the United Nations.

14. In conclusion, she expressed the hope that the Diplomatic Conference to be held at Rome in the summer of 1998 would result in the establishment of an international criminal court, since such an institution would effectively enhanced the possibility of putting an end to impunity in cases of serious violations of human rights law.

15. Mr. Hynes (Canada), Vice-Chairman, took the Chair.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS IN THE OCCUPIED ARAB TERRITORIES, INCLUDING PALESTINE (agenda item 4) (continued) (E/CN.4/1998/4 and Corr.1, 7, 8, 17-20, 112, 116, 124, 125, 128, 133, 134, 136, 137 and 141.; E/CN.4/1998/NGO/61)

16. Mr. MAHCHOU (Arab Lawyers' Union) said that the Middle East was passing through a very dangerous period, particularly in Palestine. The peace process was in its death throes, and that had had a negative effect on both the Arab-Israel dialogue and the realization of the legitimate rights of the Palestinian people. The Israeli Government continued utterly to deny the "land for peace" agreement, putting into action a plan that was aimed at ending the peace process.

17. The number of murders that had recently taken place in Hebron showed that no one could guarantee that the Palestinians in the occupied territories would be protected from Israeli settlers. The standard of living of the Palestinians had dropped sharply, and their right to economic, social and cultural development was being violated, leading to extremism.

18. Mr. HALINEN (Special Rapporteur) said that debate on agenda item 4 had been more substantive than the previous year, many of the comments being constructive. The comprehensive approach to human rights that he had long advocated had received greater support and the Chairman and the Bureau had taken firm action to improve the Commission's working methods.

19. Bitterness and accusations had also been heard in the debate, notably from the representative of Israel, who had called his report (E/CN.4/1998/17) "one-sided". There was no truth in that allegation but, if there were, it would be due to the lack of cooperation by the Government of Israel. He received extensive information throughout the year, using Palestinian, Israeli and international sources. No participant in the debate had put forward any corrections to statements of fact contained in the report. Neither the Ambassador nor other representative of the Government of Israel had acceded to his requests for meetings, even though cooperation would clearly be in the interests not only of human rights but of that Government itself.

20. The allegation had been made by the Israeli delegation that "much" of the report went beyond his mandate, but he had consistently asked for a wider mandate similar to that of other country rapporteurs. He made no apology for referring to the emergency session of the General Assembly on the Middle East. As for references to the peace process, he wished to make it clear that he did not have any hidden agenda and had no intention of inserting himself into the peace process. All he wanted was to ensure consideration of the role of human rights in the context of the peace process, first and foremost between the countries themselves but also facilitated, as appropriate, by outside partners. He would continue to raise the issue, but as a catalyst only.

21. The Commission was not unaccustomed to attempts by a Government to discredit a special rapporteur's report; indeed, it was only to be expected from a Government that had refused to cooperate with the rapporteur assigned to it. His own such experience had served only to increase his desire for cooperation, to which his mandate was not, and need not be, an obstacle.

22. The representative of Israel had asked for facts, the whole facts and nothing but the facts. That was an admirable sentiment and he urged the representative to share facts with him in advance and let him take them into account in drafting his reports, as the Palestinian Authority and others in the international community did. That would be in the interests of Israel, of the Palestinian people and of human rights.

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION (agenda item 7) (continued) (E/CN.4/1998/30, 31, and 125; E/CN.4/1998/NGO/30 and 65)

23. Mr. CHUAHA (Pax Romana) said that the human rights situation of the Bubi people on the island of Bioko in Equatorial Guinea had seriously deteriorated since 21 January 1998, when a violent clash at Luba had caused the death of four persons, two of them being members of the army. After that event, the Government had unleashed a wave of repression against the entire Bubi population of the island, arbitrarily detaining some 800 persons. The detainees had been severely ill-treated and many of them had disappeared. The authorities attributed the Luba clash to the Movimiento para la Autodeterminacion de la Isla de Bioko (MAIB), although the Special Rapporteur for Equatorial Guinea (and his predecessor) had found that the accusations levelled against the - pacific - political movement of the Bubi people were unconvincing and unacceptable.

24. The discrimination practised against the Bubi people had degenerated into something approaching genocide, and he thus requested the Commission to instruct the Special Rapporteur, in the course of his forthcoming visit to Equatorial Guinea, to do his utmost to ensure a thorough investigation, including a search for possible mass graves, into the systematic violation of the human rights of the Bubis by the Government of Equatorial Guinea; to urge the authorities to prosecute the detainees before the courts in accordance with the international agreements to which the country was a party; and to initiate a negotiating process leading to the exercise of the Bubi people's right to self-determination.

25. Mr. JAMES (International Indian Treaty Council) said that there were some States which took every opportunity to justify their continuing exclusion of indigenous peoples from the enjoyment of the right to self-determination. In particular, the assertion by the United States that the right to self-determination of American Indians and Alaska Native Tribes was well protected under its domestic law had been shown up again in all its hollowness by the recent decision of the Supreme Court to overturn a lower court's decision recognizing that the native village of Venetie in Alaska qualified as "Indian country" under federal law.

26. The Supreme Court's ruling meant that even the limited federal recognition of self-determination for the people of Venetie and, by implication, of the vast majority of Alaska Natives, was not recognized under United States law. Some of the regions inhabited by the Alaskan Natives were considered to be among the last pristine places left on earth and the important contribution of those peoples to society by taking care of the environment deserved recognition. He called upon the Commission to establish appropriate standards with a view to redressing violations of the inherent right of indigenous peoples to self-determination.

27. Ms. di POGGIO (International League for the Rights and Liberation of Peoples) said that the plan drawn up by the United Nations and the Organization of African Unity (OAU) for the referendum on self-determination in Western Sahara had been significantly delayed in such vital areas as the identification of voters. The plan had been relaunched, however, largely due to the efforts of the Secretary-General but some areas of concern remained. As the Secretary-General himself had noted, there was a certain anti-POLISARIO and even anti-MINURSO tendency in the Moroccan press. The Saharans continued to be subjected to intimidation and the current tensions could undermine the progress made by the United Nations organs and compromise the exercise of their right to self-determination. The de-mining of occupied areas was another cause for concern, in view of the repatriation of Saharan refugees.

28. Turning to the situation in Kosovo, she said that the people of that region had been given the right to self-determination not only by the Universal Declaration of Human Rights but also by article 1 of the 1974 Constitution of the Federal Republic of Yugoslavia. In the view of her organization, the key to solving the Kosovo crisis was the full expression of the right of its people to rule itself, accompanied by a bilateral commitment to substantial dialogue and cooperation following United Nations, Organization for Security and Cooperation in Europe (OSCE) and European Union guidelines.

29. Mr. van PRAAG (Pax Christi International), speaking also on behalf the Transnational Radical Party, said that the importance of the right of self-determination as a prerequisite for the enjoyment of all other human rights was once again evident from the debate taking place at the current session of the Commission. The explosive situation in Kosovo was a clear illustration of the fact that an end to the violations of human rights could come only from a true exercise of self-determination.

30. There had been positive developments in Western Sahara, Bougainville, the Chittagong Hill Tracts and Nagaland, but peace talks in Chechnya, Ingushetia and Abkhazia were making no significant progress. There were also

no positive developments in East Timor despite the reaffirmation by the International Court of Justice of its right to self-determination.

31. With regard to Tibet, the representative of the People's Republic of China had cited paragraph 2, third subparagraph, of the Vienna Declaration to support the view that Tibet did not have the right to exercise self-determination. However, the speaker chose to ignore the next part of the same sentence which required the States to conduct themselves in compliance with the principle of equal rights and self-determination of peoples. An exercise of the right to self-determination did not necessarily lead to the independence of the people and territory claiming that right. Where, however, a Government did not protect and represent the interests of a people but oppressed that people, it found no support in the language of the Vienna Declaration.

32. Ms. VERZEGNASSI (International Progress Organization) said that colonialism had been a process of exploitation whereby the masters had implemented a policy of "divide and rule" by pitting segments of a society against each other and defining them in terms of religion, language and even race. In contemporary times, India and Pakistan and their differences over the State of Jammu and Kashmir provided an excellent example of where that policy could lead.

33. Human rights were important to every nation, and those countries formerly under colonial rule, which had adopted democratic systems had certainly done so because they believed that democracy was the best guarantor of human rights. India had known a democratic way of life since independence and Pakistan, after a troubled start with military dictatorships, was slowly shedding its unfortunate legacy. Yet while India was concentrating on economic development, Pakistan had allowed itself to become enmeshed in the conflict in Afghanistan by allowing the Taliban to use its territory. The people of Pakistan thus faced the prospect of a future marked by fundamentalism, sectarian violence, guns and drugs, possibly because their leaders hoped to gain help from the Taliban to further their interests in Indian Kashmir.

34. The two countries had an historic opportunity to rise above the conflicts of the past 50 years and look to the future. To do so, they must look to themselves for the answers. The peoples of both countries belonged to ancient, mature civilizations with the intellectual capital to formulate solutions even to intractable issues like Jammu and Kashmir. Any attempt to internationalize what was basically a local issue would only bring back new and more dangerous forms of the old colonial interests.

35. Mr. AHMAD (World Muslim Congress) said that the human rights situation in Kosovo had worsened dramatically in the past year under apartheid-style rule by the Serbian authorities in Belgrade. The Serbian forces had recently inflicted large-scale destruction of life and property, and indulged in sordid violation of the human rights of the ethnic Albanians who constituted 90 per cent of the population of Kosovo.

36. The right to self-determination of a people which had been annexed to an alien State by force was enshrined in the Charter of the United Nations.

India's annexation of Kashmir in October 1947 was an international crime and such annexation gave no title to a territory. India, having accepted that it could possess no legal title to the State of Jammu and Kashmir unless it was so pronounced by the people of the State through an impartial plebiscite under the supervision of the United Nations, had actively obstructed the holding of such a plebiscite ever since.

37. India had responded to civil and democratic protest by unprecedented repression, denying neutral observers and human rights organizations access to Kashmir. The Government repeated the myth that the State of Jammu and Kashmir was an integral part of India, argued that the removal of the State from its control would threaten its territorial integrity; asserted that the safety of the Muslim minority depended on Kashmir remaining a part of India; and labelled the Kashmiri independence struggle as Islamic fundamentalism.

38. Ms. MANN (Liberation) said the Commission should adopt a resolution calling upon the Government of Sri Lanka to recognize the right of the Tamil people to self-determination. The armed struggle of the Tamil people of Sri Lanka was a response to decades of oppressive alien rule and the dishonouring by successive Sinhala-dominated Governments of agreements solemnly entered into with Tamil parliamentary parties. The war which the Sri Lankan Government was waging against the Tamil people was unlawful and unjust, and it must withdraw its military forces from the Tamil homeland and advance a meaningful peace process.

39. Mr. NASEEM (World Society of Victimology), speaking also on behalf of the International Human Rights Association of American Minorities, said that, 50 years after the question had first come before the United Nations, there was still no acceptable and just resolution of the dispute concerning the territory and people of Jammu and Kashmir. India had engaged in serious human rights violations in the territory and had attempted to legitimize its occupation by imposing a series of bogus elections on the population there, elections that had been overwhelmingly rejected by the people.

40. Peace and respect for human rights and fundamental freedoms could be achieved in the territory only through a lasting settlement based on United Nations resolutions and the granting of the unconditional right of self-determination to its people. For its part, the Commission should urge India to adopt a positive and constructive attitude, withdraw its occupation forces, repeal all ordinances and laws in contravention of international covenants and engage in a serious dialogue with the genuine leadership of Jammu and Kashmir and with Pakistan.

41. Mr. KHAN (Asian Buddhist Conference for Peace) said that the illegal occupation of the State of Jammu and Kashmir by India and Pakistan was the oldest unresolved issue on the agenda of the United Nations. Both India and Pakistan had, for the past 50 years, been misusing Kashmir in their foreign, economic and defence policies. He thus appealed to the members of the Commission, the observer States, the international community in general and the NGOs to exert their influence over the Governments of India and Pakistan and urge them to comply with the resolutions of the Security Council so that the people of Kashmir could decide their own future for themselves.

42. Ms. LE FRAPER DU HEILEN (International Association of Democratic Lawyers) said that, under an act of 1988, a referendum was to be held by 31 December 1998 to decide whether New Caledonia was to remain within the French Republic or become independent. To avoid such a referendum, the partners in the Matignon Agreements - the anti-independence Rassemblement pour la Calédonie dans la République (RPCR) and the pro-independence Front de Libération Kanak et Socialiste (FLNKS) - had come out in favour of finding a negotiated solution, in the form of a State associated with France. The FLNKS, as the recognized representative of the Kanak people, considered that such a settlement should involve recognition of the Kanak identity, Kanak sovereignty and reparations by the French State, which would help the new State on the road to economic, social and cultural independence, in free association with France.

43. Turning to the question of Western Sahara, she said that the Bureau of her Association had met at Washington D.C. in October 1997 and had passed a resolution whereby it appealed to the international community to play an active role in ensuring that the Western Saharan people would be able to exercise their right to self-determination in complete freedom and without any constraints, and to exert pressure on Morocco to respect the Houston Agreements and cease its manoeuvres concerning the identification of the future participants in the self-determination referendum.

STATEMENT BY THE HEAD OF THE INTERNATIONAL ORGANIZATIONS DEPARTMENT AT THE MINISTRY OF FOREIGN AFFAIRS OF SAUDI ARABIA

44. Prince Torki Ben Mohammed Ben Saoud AL-KABEER (Saudi Arabia) said that the current session of the Commission, on the fiftieth anniversary of the Universal Declaration of Human Rights, revealed an international political will to achieve a better understanding of human rights throughout the world. At a time when flagrant violations of human rights were increasing, it gave an opportunity to strengthen and protect the essential principles of the Declaration. His country, as a founder member of the United Nations, had full confidence in the rightness of the Declaration's message.

45. Human rights were fully respected in Saudi Arabia; the divine rule was reflected in its legislation and Constitution. His Government had paid particular attention to ensuring that all forms of discrimination were unlawful. It had acceded to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment and to the International Convention on the Elimination of All Forms of Racial Discrimination; a special committee to study the possibility of acceding to other instruments had been established. His Government would continue to help fund human rights instruments. Human rights formed part of the school curriculum and were the subject of media campaigns.

46. Saudi Arabia had a developed society based on an ancient civilization. It was one of the most stable countries in the world, with full employment, a highly developed free education system and with scholarships for university students. Medical care was free and the environment was protected. The millions of foreign workers who contributed to the country's prosperity enjoyed the same benefits and rights as citizens. They paid no taxes and

could transfer all their earnings to their home countries. Saudi Arabia had also provided a home for some 70,000 Iraqi refugees, at an estimated cost of one billion United States dollars.

47. Particular importance was attached to the welfare of children. Saudi Arabia had been one of the first countries to set up a national committee on children and the health centre catering for sick and disabled children was the largest in the Middle East. Children should be brought up to be aware of their duties to society.

48. International peace and security were closely linked with human rights and with self-determination. In that context, he called for an end to the Israeli occupation of territories in the Middle East. Israel ignored all the resolutions adopted by international bodies, including the Commission. The key to the problem was conciliation, particularly religious conciliation, to which Islam attached great importance.

49. More broadly, serious efforts should be made to put an end to human rights violations wherever they occurred, and to discrimination on the grounds of race or religion, on the basis of mutual respect and understanding. Account should be taken of differences between societies and their various beliefs: human rights should not be used as a pretext for interference in another country's internal affairs. His country was always happy to welcome human rights organizations provided they showed goodwill and respect for other cultures.

STATEMENT BY THE MINISTER FOR LEGAL AFFAIRS OF YEMEN

50. Mr. GHANEM (Yemen) said that the provisions of his country's Constitution stipulating equality and freedom of expression attested to the importance that it attached to human rights. His Government was in favour of all efforts to protect human rights and fundamental freedoms in the interests of sustainable development. Yemen enjoyed all the advantages of political pluralism and was vigilant in implementing the human rights instruments; a high-level committee of ministers, including himself, oversaw human rights issues, which were central to the country's policies and institutions.

51. Many NGOs dealing with human rights were active in Yemen, in accordance with the country's laws, and they were always invited to work with the Government towards the common goal. Public education campaigns were mounted, seminars were held and schoolchildren were taught about human rights so as to avoid misunderstandings and violations of human rights out of ignorance of the law. Recent elections had been successfully carried out, as certified by international observers, both governmental and non-governmental.

52. Yemen had the political will to implement human rights instruments but it lacked the material resources to do so. For that reason its human rights record did not always come up to its expectations. Respect for human rights had to be broadened to cover all disadvantaged groups and he called on other countries to give Yemen the benefit of their experience, together with technical or financial assistance.

53. His Government had never disguised the fact that human rights violations did exist, though when detected they were punished. Its attempts to root out such violations had, however, sometimes been misinterpreted for political ends. Such misinterpretations were human rights violations themselves, since they made a plaything of a serious issue. In any consideration of human rights, a country's culture should be taken into account. Human rights should not be used as a pretext for intervention in Yemen's internal affairs or as an instrument of blackmail.

STATEMENT BY THE DEPUTY MINISTER FOR FOREIGN AFFAIRS OF ZAMBIA

54. Mr. KAYOPE (Zambia) said that the fiftieth anniversary of the Universal Declaration of Human Rights provided an opportunity to reflect on past achievements and failures and on the future challenge of creating conditions under which all would live in peace and dignity. The root causes of conflicts had to be addressed and poverty had to be eradicated. The realization of the right to development, an inalienable human right, was crucial.

55. The convening of the planned world conference on racial discrimination was timely. It would provide an opportunity for the international community to strengthen its campaign against the serious violations of human rights caused by racism, racial discrimination, xenophobia and other forms of intolerance. Cooperation, together with an avoidance of politicization and confrontation, was essential in that context.

56. The ruling party of Zambia, the Movement for Multi-Party Democracy, had been elected to Government in 1991 and re-elected in 1996, following free and fair elections. In the social sector, its activities centred on promoting gender equality, providing good educational and health services, facilitating poverty reduction, and promoting home ownership. Its liberalization programme was intended to enable any Zambian or foreigner to participate freely in any legal economic undertaking or to own property without any risk of being arbitrarily deprived thereof.

57. Zambia had established national institutions for the promotion and protection of human rights, including an independent Human Rights Commission; an independent judiciary; an independent Investigator-General (Ombudsman); and an independent Anti-Corruption Commission. Those institutions guaranteed a fair hearing to complaints regarding human rights violations and abuse of powers by administrative officials.

58. The functions of the Human Rights Commission included investigating human rights violations; proposing effective measures to prevent such violations; assessing and inspecting prisons and making recommendations to redress problems; and establishing programmes of research, education, information and rehabilitation of victims of human rights abuse. The Commission reported its findings to the authorities concerned and made recommendations, including recommendations as to the punishment of any official found to have abused human rights. Between July 1997 - when it began operations - and December, the Commission had received 376 complaints, with complaints to date in 1998 amounting to 104. The increasing number of complaints reflected the Commission's impartiality and independence.

59. Judicial review of administrative action was frequently used as a common-law remedy. The courts were entitled to review administrative decisions to determine their legality, and any aggrieved party could bring an action before the courts.

60. To ensure that those wielding power exercised it in accordance with the law, the Investigator-General's Office had been established to inquire into the circumstances of administrative actions. The Office was required to submit its findings and recommendations to the President of the Republic and to submit an annual report to Parliament.

61. Every Zambian was free to join or to form a political party. Other than the legal requirement for the registration of political parties with the Registrar of Societies, there were no other special requirements for their formation. Only when political parties failed to make annual returns to the Registrar or disbanded of their own free will could they be deregistered. At the beginning of 1998, 34 political parties had been registered, but 14 of them had since been deregistered for failing to make annual returns. The Government was committed to an ongoing process of dialogue with other political parties on matters of national concern.

62. The state of emergency in Zambia, proclaimed on 29 October 1997, had been lifted on 17 March 1998. It had initially been proclaimed for three months following the failed attempt at a coup d'état against the democratically elected Government. In January 1998, it had been extended for a further three-month period. Some detainees had decided to challenge the legality of their detention and had been given fair hearings by the courts. The majority of those held had either been charged with treason or misprision or had been released. All those charged would receive a speedy and fair trial in accordance with Zambia's commitment to the rule of law and respect for human rights and fundamental freedoms.

63. Some members of the international community had perceived the proclamation of the state of emergency as the imposition of a police State, but there was no truth to that perception. The burden of proof had lain with the prosecution and cases had been brought by the Director of Public Prosecutions, an institution independent of the investigatory organs of the State. His Government would, in fact, welcome technical assistance to draft domestic legislation so that such situations could be handled in the future without the proclamation of a state of emergency.

64. Zambia recognized and respected the independence of the judiciary and had taken steps to strengthen that institution in accordance with the Constitution. It was also working to strengthen the separation of powers.

65. The role played by a free and independent press in any democracy was enormous. The Government appreciated that wide and diversified access to information was healthy for the democratized process. Thus far, there were four independent radio stations and eight independent newspapers which operated without any Government interference. The independent media were, of course, subject to the rule of law. The Government had supported recent efforts by the media to establish their own regulatory bodies to promote ethics in journalism.

66. The good governance conditionality was gaining prominence in international development cooperation and, while it might have its merits, it also had inherent dangers. First, it was subjective, as the donor community could easily shift the goal posts at will. Secondly, it led to interference in the internal affairs of sovereign States. The need to define good governance had thus become imperative. International development cooperation that undermined the dignity, integrity and sovereignty of the partner State was unsustainable and not in the long-term interests of the international community.

ORGANIZATION OF THE WORK OF THE SESSION (agenda item 3) (continued)
(E/CN.4/1998/104 and Corr.1, 109, 117, 122 and 123)

67. Mr. CASTRO CAYCEDO (Observer for Colombia), speaking as the People's Advocate (Ombudsman) of Colombia, said that he would have liked to be able to report that the human rights situation in his country had improved but, unfortunately, it was still bleak and uncertain, largely due to the weakness of the institutions designed to guide the country through an economic development process that would restore harmony between the people and the State. In a country where armed conflict had turned into war, the parties to the conflict must not fail to comply with international humanitarian law.

68. The uncertain situation was most evident in areas related to political violence. Thousands of young people died every year; scores were maimed by landmines. Land reforms were implemented at gunpoint: over one million people had been forcibly displaced from their homes. Abductions, forced disappearances and arbitrary detentions carried out by both the armed forces and paramilitary and guerrilla groups, were ongoing.

69. Excessive use of force by the military against subversive groups affected civilian human rights, while seldom achieving their military goals. Paramilitary death squads travelled the country freely, murdering individuals who had allegedly collaborated with the guerrillas. Such deeds usually went unpunished. Amidst the chaos, the Government had established and supported rural self-defence groups, despite his warning that, as experience in other countries had shown, such organizations tended to degenerate into groups dispensing private justice or into bands of common criminals. Although the Supreme Court had decided to curb their operation, he believed that those organizations should be completely disbanded.

70. Compliance with the International Covenant on Economic, Social and Cultural Rights was minimal. As many as 1.7 million young people aged between 12 and 17 and 800,000 children aged 6 to 11 were compelled to work. Some 46 per cent of the children enrolled in elementary school did not go on to secondary school and only 12 per cent made it to the university level. Six million children were living in poverty; one million of them in absolute poverty. His Office considered that the rights of children and young people were subject to the most frequent and serious violations.

71. Violations of the right to life were particularly common among the ethnic minorities, including the indigenous peoples and Afro-Colombians. Irrational use of natural resources was leading to the destruction of biodiversity through deforestation to plant coca, which led to further

degradation of the soil and water resources. Air and water were contaminated by the use of chemicals to eradicate the illegal crops. In addition, subversive attacks on oil pipelines polluted the waterways, affecting wildlife, vegetation, the soil and the economy.

72. The situation in the prisons had reached a critical stage that went well beyond any concept of humane conditions. Prison capacity had been exceeded by some 15,000 with the result that up to 10 inmates had to share cells intended for 2 persons. Almost half of all prisoners had not been convicted but were awaiting trial.

73. Impunity had caused the nation to crumble from within: crimes were committed and neither investigated nor punished. Regional justice, hiding behind "faceless" prosecutors and anonymous witnesses, was not only a source of violations of the right of due process but had not yielded the anticipated results.

74. Despite economic difficulties and constant threats, his own Office and NGOs continued to work to enhance the protection of human rights. Some 20,000 formal complaints were filed each year with his Office, mostly concerning human rights violations by agents of the State and private security forces. Members of his staff had very recently been subjected to harassment and intimidation by units of the Colombian army, which had not allowed them or the representatives of international organizations to enter an area in the south of the country where the conflict had recently escalated. Only a week previously, after his departure for Geneva, a contingent from his Office had been buzzed by military helicopters and otherwise intimidated. He intended to take the appropriate legal action and had requested the President of the Republic to instruct all government departments to support his Office.

75. It was not by apportioning blame or condemnation, however, that the crisis would be overcome. Colombia needed the understanding, support and solidarity of the international community, in endeavouring to secure the peace its people so ardently desired. He was very grateful to the United Nations for supporting the struggle to guarantee human rights in Colombia and especially for opening an Office of the High Commissioner for Human Rights in Bogota.

76. Mr. Selebi (South Africa) resumed the Chair.

77. Ms. HECTOR (Lawyers Committee for Human Rights) said that, as the Commission which had been instrumental in bringing about the establishment of an Office in Colombia prepared itself to review the High Commissioner's first public report on that effort, there were a number of key issues she thought it should consider. The Office had a wide range of responsibilities, including competence regarding matters of international humanitarian norms applicable to all parties and not just the Government, but its basic task was to promote better compliance with international human rights standards and authoritative recommendations, such as those of the Human Rights Committee.

78. The Commission's prime concern had to be the response to the human rights situation by the Government of Colombia and, in particular, whether it had taken steps to implement the measures recommended by United Nations expert

bodies, what steps had still to be taken towards full implementation, and in which areas the level of implementation had fallen. The Commission should also seek to determine whether the Office was interpreting and executing its mandate faithfully and effectively, what areas or aspects of its mandate required more attention, and what additional guidance, if any, was needed from the Office of the High Commissioner.

79. Her own Committee's experience of the human rights situation in Colombia led it to believe that sustained violations of a wide range of human rights were at the heart of the armed conflict in Colombia, which made the job of the Office very much more difficult. One of the Office's highest priorities was a determined insistence on the protection of human rights. Being limited in size, the Office had to make careful choices as to what it did: the administration of justice was an obvious priority area. Its working methods should be clearly communicated to those who helped or were helped by it. For example, NGOs could enhance its work if they knew the standards and practices governing data collection and reporting, and would contribute more effectively to the human rights situation after the Office departed if their own methods had benefited from effective collaboration with it while it was in place.

80. Transparency also entailed making certain information about the human rights situation publicly available and, in Colombia, that might mean taking full advantage of the mandate's technical cooperation component as well as its observation and reporting responsibilities. It was for the Commission to consider the best balance between those activities.

81. The Commission should also consider the nature of the relationship between the Office in Colombia and the Office of the High Commissioner; it was impossible to overstate the importance of close and continuous communication between Bogota and Geneva.

82. Her committee wished to emphasize that, despite many signs of deterioration in Colombia's human rights situation, there was also concrete evidence that international attention could prompt change. The Commission should recognize that an independent international human rights presence in Colombia was essential; it was equally imperative that it should be a coherent and effective expression of the Commission's findings and concerns.

83. Mr. JEFFERY (OXFAM), speaking on behalf of the ABC group of British agencies working in Colombia (Christian Aid, CAFOD, CIIR, Save the Children Fund and OXFAM United Kingdom and Ireland), expressed its support for the extension of the mandate of the Office in Colombia and the increase in the number of experts, but noted that the human rights crisis in Colombia continued to intensify, especially as a result of the expansion of paramilitary groups. The annual report should fully reflect that fact and, in particular, the worsening situation regarding internal displacement. A recent UNHCR report placed Colombia seventh in a league table of displacement, estimating the displaced population at 900,000.

84. Visits by his group's representatives had determined that the major cause of displacement was the infringement of human rights. They had been told of economic blockades by paramilitary forces, selective killings and multiple disappearances, which had spread terror and broken up communities,

forcing rural people to take refuge in towns, where they continued to be victimized as supposed "guerrilla collaborators". There had been recent reports of selective killings of up to 50 civilians in one region since the beginning of the year, suggesting that further widespread displacement might ensue.

85. Agreements signed by the Government for the return of people displaced from one area had not been fully complied with, and 500 people who had returned in January 1998 were still living in makeshift accommodation. Both guerrilla and paramilitary groups were present in the area of return, despite Government assurances that the armed forces had the area under control.

86. His group asked the Commission to reaffirm that the Office's fundamental objective was to observe and monitor the grave human rights situation in Colombia as a contribution to an improvement in the situation, and endorsed the recommendation that the Office should have a more extensive public reporting system.

87. The Commission should also request the Secretary-General to send his Special Representative for internally displaced persons to Colombia on a follow-up visit and to extend his mandate, which would expire at the end of 1998. Finally, the Commission should express its concern that the Government of Colombia had not yet complied with existing United Nations recommendations, especially with reference to displaced persons, and should instruct the Office of the High Commissioner to ensure that those recommendations were fully implemented.

The meeting rose at 1.05 p.m.